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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,704	09/23/2003	John J. Toben	6006-149-1	2213

7590 04/23/2009
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EXAMINER

SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
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3677

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/668,704	Applicant(s) TOBEN ET AL.	
	Examiner Flemming Saether	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 8-15 and 22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Claims 8-15 and 22 remain in application as withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 as amended is indefinite because it is now unclear if applicant intends to apply 112 sixth paragraph. As amended, the claim includes limiting structure following the “means for” thus it is unclear if applicant intends to limit the claims to the structure or is applying the broader 112 sixth paragraph. Additionally, if applicant is applying the 112 sixth paragraph, it should be made clear in the specification as to what is the structure of the means. The claims were interpreted as not applying 112 sixth paragraph and require the structure included in the amendment.

Claim Rejections - 35 USC § 103

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siiter (US 6,901,969) in view of Wildi (US 3,590,464) and further in view of Bonnell (US 5,779,623). Siiter is similar to applicant's admitted prior art wherein a duct reinforcement rod is fabricated by inserting a conduit over a threaded element and then having an apparatus deforming the conduit to capture the threaded element (see Figs.

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9). Sitter however does not disclose the apparatus deforming the conduit at two axially spaced locations to capture the threaded element there between. Wildi discloses a fabrication apparatus including a means for deforming a conduit at two axially spaced locations to capture a threaded element, particularly a nut, there between (see for example Fig. 5). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to modify the apparatus of Siiter for it is deform the conduit at a two axially spaced locations as disclosed in Wild so that a conventional hexagonal nut could be used to be more economical and versatile than a specialty nut with a groove as currently required in Siiter. Siiter further discloses a vertical orientation of the conduit. As to the positioning means, insertion means, and deformation means, Siiter discloses in the paragraph bridging columns 6 and 7 that various devices and mechanisms can be used to facilitate the crimping of the plug into the tube but, does not disclose a pair of opposed tube pushers. Bonnell discloses a positioning and insertion means including a mechanism having a pair of opposed tube pushers (112, 114). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to use the mechanism including a pair of opposed tube pushers as disclosed in Bonnell to position the tube in modified Siiter. The mechanism disclosed Bonnell is described as an automated technique to improve the positioning of a tube over a manual technique and the skilled artisan would have recognized the similar improvement could be applied to modify Siiter yielding the same results. Indeed the automated mechanism would be an improvement over the manual operation because it would be more efficient.

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siiter in view of Wildi as applied to claims 1 and 3 above, and further in view of Di Maio (US 4,005,519). Modified Siiter does not disclose details of the apparatus as claimed. Di Maio discloses an apparatus having a rack and pinion gear mechanism (see Figs. 17 and 18). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the apparatus of modified Siiter with a rack and pinion gear mechanism as disclosed in Di Maio since rack and pinion arrangements are well known machine elements for conveniently converting rotary to linear motion which would be convenient method for automating the linear motion required the conduit on modified Siiter. As regards claims 6 and 7, the crimping blocks are disclosed in Siiter (again, refer to Figs. 9).

Allowable Subject Matter

Claim 21 remains in the application as allowable.

Response to Remarks

Applicants' remarks have been considered but, are moot in view of the new grounds of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Flemming Saether
Primary Examiner
Art Unit 3677

/Flemming Saether/
Primary Examiner, Art Unit 3677